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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,763	09/17/2001	Paul J. Thompson	11576.51USI1	8878

21127 7590 07/13/2006
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EXAMINER

WEBB, SARAH K

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/954,763

Applicant(s)

THOMPSON ET AL.

Examiner

Sarah K. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10, 11, 13, 14, 17-19, 23, 25, 26 and 28-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 11, 13, 14, 17-19, 23, 25, 26 and 28-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-8,10,11,13,14,17-19, 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Line 24 of claim ends in a period, but the claim includes added language (at the top of page 2 of claim 1) that renders the claim indefinite. Since "discharge openings" are recited in lines 20-24, the "fluid exchange apertures" recited in the following lines are redundant.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-8,10,11,13,14,17-19, 23, 25,26, 28,29, and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,786,918 to Krivoruchko et al. ('918) in view of US Patent No. 6,168,617 to Blaeser et al.

'918 discloses a catheter that includes an outer shaft (26), inner shaft (24), fluid channel (68A-H), admission port (shown in Figures 3 and 15), stent (28) mounted on the distal region, and a spacer (62) comprising a plurality of "splines" disposed in the fluid channel. The spacer (62) can best be seen in cross-section in Figure 5 and is substantially similar to the spacer shown in Figure 5 of the application. Figure 2 illustrates that the spacer (62) extends a majority of the length of the catheter shafts (24,26). The admission port that extends through the sidewall of the handle in

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Figures 3 and 15 (column 6, lines 12-20) is similar to admission port (42) at the proximal end of the shaft disclosed in applicant's specification. The port is in communication with the fluid channel, as Krivoruchko explains that saline may be delivered to the lumen (column 6, lines 12-13), so the structure of the admission port disclosed by Krivoruchko is considered to meet the claim requirements. '918 discloses that the inner and outer shafts are slidable relative to one another (column 3, lines 35-37). As shown in Figure 2, a guide wire (82) may be disposed in the lumen of the inner shaft (24) (column 6, lines 13-14). The stent (28) is self-expanding and deployed by retraction of the outer shaft (26).

Krivoruchko fails to include discharge openings in the wall of the outer shaft near the proximal and distal ends of the stent mounting location. Blaeser discloses a catheter with a stent (48) mounted on a distal region of a shaft (14) and a retractable sheath (28). Figure 4 shows that apertures (52) may be formed in the outer sheath (column 6, lines 9-10), and a port (60) is in communication with a passageway in the catheter and the apertures of the outer sheath (column 5, lines 30-32 and 50-54). Some of the apertures may be located proximal or distal to the "stent mounting location", since the sheath (28) extends past both ends of the stent (48). Blaeser teaches that the apertures can enhance flexibility (column 6, lines 9-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include apertures proximal and distal the stent mounting region of the '918 device, as Blaeser teaches that an array of apertures in a retractable sheath of a stent delivery device can enhance flexibility.

Regarding claims 17 and 18, the spacer is considered to have a surface that is *capable of* being thermally bonded to another surface. No other structural characteristics are required by these claims.

3. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krivoruchko ('918) in view of Blaeser, and further in view of US Patent No. 5,005,584 to Little.

The modified '918 device includes all the limitations of claim 30, except for a pressure measuring device. Little discloses a guide wire that measures fluid pressure and is capable of being used with the modified '918 device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the Little guide wire for the guide wire of the modified '918 device, as this produces a combination that is capable of measuring fluid pressure within a passageway. This combination would provide the operator with the capability of detecting defects in the body passageway.

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K. Webb whose telephone number is (571) 272-4706. The examiner can normally be reached on Mon-Fri 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SKW
7/7/06



JULIAN W. WOO
PRIMARY EXAMINER